

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JUNE 17, 2004

AMENDED IN ASSEMBLY MAY 24, 2004

SENATE BILL

No. 1303

Introduced by Senator Torlakson

February 17, 2004

~~An act to amend Sections 1150, 1159.1, 1191, and 1200 of, to add Section 1190.2 to, and to repeal and add Sections 1190 and 1190.1 of, An act to amend Section 1150 of the Harbors and Navigation Code, relating to harbors.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1303, as amended, Torlakson. Harbors: Board of Pilot Commissioners: ~~pilotage rates.~~

~~(1) Existing~~

Existing law establishes in state government the Board of Pilot Commissioners, with jurisdiction over Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. Existing law requires that 2 members of the commission represent the industry and be substantial users of Monterey Bay and any of the waters of the Bays of San Francisco, San Pablo, or Suisun.

This bill would instead require those 2 members to be substantial users of any of the waters of the Bays of San Francisco, San Pablo, Suisun, or Monterey.

~~(2) Existing law establishes pilotage rates and authorizes the board to recommend rate increases to the Legislature under a specified procedure.~~

~~This bill would increase the rates, as specified.~~

~~The bill would require the board, on January 1, 2007, and each January 1 thereafter, up to and including January 1, 2012, to adjust the rates to reflect an average of the preceding three 12-month periods ending on October 31, in the Western Region Consumer Price Index for All Consumers, as published by the Bureau of Labor Statistics of the federal Department of Labor, unless the rates have been amended by the Legislature in accordance with the board's recommendations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1150 of the Harbors and Navigation
2 Code is amended to read:

3 1150. (a) There is in the state government a Board of Pilot
4 Commissioners for the Bays of San Francisco, San Pablo, and
5 Suisun, consisting of seven members appointed by the Governor,
6 with the consent of the Senate, as follows:

7 (1) Two members shall be pilots licensed pursuant to this
8 division.

9 (2) Two members shall represent the industry and shall be
10 persons currently engaged as owners, officers, directors,
11 employees, or representatives of a firm or association of firms that
12 is a substantial user of pilotage service in the Bay of San Francisco,
13 San Pablo, Suisun, or Monterey, one of whom shall be engaged in
14 the field of tanker company operations, and one of whom shall be
15 engaged in dry cargo operations. The board of directors of a
16 regional maritime trade association controlled by West Coast
17 vessel operators that specifically represents the owners and
18 operators of vessels or barges engaged in transportation by water
19 of cargo or passengers from or to the Pacific area of the United
20 States shall nominate, rank, and submit to the Governor the names
21 of three persons for each category of industry member to be
22 appointed.

23 (3) Three members shall be public members. Any person may
24 serve as a public member unless otherwise prohibited by law,
25 except that during his or her term of office or within the two years
26 preceding his or her appointment, no public member appointed on
27 or after January 1, 1991, may have (A) any financial or proprietary
28 interest in the ownership, operation, or management of tugs, cargo,



or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, nothing in this chapter prohibits the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, and may not be appointed for more than two terms. Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively, and no person may be appointed for more than two terms. Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

~~SEC. 2.—Section 1159.1 of the Harbors and Navigation Code, as added by Section 9 of Chapter 1423 of the Statutes of 1990, is amended to read:~~

~~1159.1.—The vessel shall pay a board operations surcharge, the purpose of which is to fully compensate the board for its official services, for the services of its staff, and for all its incidental~~

1 expenses. The amount of the surcharge shall be 7.5 percent of all
2 pilotage fees charged by pilots and inland pilots, pursuant to
3 Sections 1190, 1190.1, 1190.2, and 1191 unless the board
4 establishes, with the approval of the Department of Finance, a
5 lesser percentage. The surcharge shall be billed and collected by
6 the pilots and inland pilots. The pilots and inland pilots shall pay
7 all surcharges collected by them to the board monthly or at such
8 later time as the board may direct. The board shall quarterly review
9 its ongoing and anticipated expenses and adjust the surcharge to
10 reflect any changes which have occurred since the last adjustment.

11 SEC. 3. ~~Section 1190 of the Harbors and Navigation Code is~~
12 ~~repealed.~~

13 SEC. 4. ~~Section 1190 is added to the Harbors and Navigation~~
14 ~~Code, to read:~~

15 1190. (a) Every vessel spoken inward or outward bound shall
16 pay a rate of bar pilotage through the Golden Gate and into or out
17 of the Bays of San Francisco, San Pablo, and Suisun that includes
18 all of the following components:

19 (1) ~~Eight dollars and seventy-eight cents (\$8.78) per draft foot~~
20 ~~of the vessel's deepest draft and fractions of a foot pro rata, and an~~
21 ~~additional charge of 78.97 mills per high gross registered ton as~~
22 ~~changed pursuant to law in effect on December 31, 1999.~~

23 (2) ~~On and after January 1, 2006, nine dollars and five cents~~
24 ~~(\$9.05) per draft foot of the vessel's deepest draft and fractions of~~
25 ~~a foot pro rata, and an additional charge of 81.34 mills per high~~
26 ~~gross registered ton as changed pursuant to law in effect on~~
27 ~~December 31, 1999.~~

28 (b) (1) ~~On January 1, 2007, and each January 1 thereafter, up~~
29 ~~to and including January 1, 2012, the board shall establish or~~
30 ~~modify the rates established pursuant to paragraphs (1) and (2) of~~
31 ~~subdivision (a) to reflect an average of the preceding three~~
32 ~~12-month periods ending on October 31, in the Western Region~~
33 ~~Consumer Price Index for All Consumers, as published by the~~
34 ~~Bureau of Labor Statistics of the federal Department of Labor.~~

35 (2) ~~Paragraph (1) does not apply if all of the following occurred~~
36 ~~during the preceding year:~~

37 (A) ~~A party directly affected by pilotage rates petitioned for a~~
38 ~~public hearing to modify the then-existing rates.~~

39 (B) ~~The board subsequently recommended a modification of~~
40 ~~the rates to the Legislature.~~

1 ~~(C) Legislation was enacted that codified the board's~~
2 ~~recommended modification of the rates.~~

3 ~~(3) If the board receives a petition from a qualified party, as~~
4 ~~described in subparagraph (A) of paragraph (2), it shall notice and~~
5 ~~hold the hearing in accordance with Section 1201.~~

6 ~~(e) The mill rate established under subdivision (a) may be~~
7 ~~modified as follows:~~

8 ~~(1) On and after January 1, 2007, if the number of pilots~~
9 ~~licensed by the board is reduced to 60 pilots, for any subsequent~~
10 ~~decrease in the number of pilots, the mill rate then in effect shall~~
11 ~~be decreased by an incremental amount that is proportionate to~~
12 ~~one-half of the last audited annual average net income per pilot for~~
13 ~~each pilot licensed by the board below 60 pilots.~~

14 ~~(2) On and after January 1, 2007, if the number of pilots~~
15 ~~licensed by the board falls below 60, for any subsequent increase~~
16 ~~in the number of pilots, the mill rate then in effect shall be~~
17 ~~increased by an incremental amount that is proportionate to~~
18 ~~one-half of the last audited annual average net income per pilot for~~
19 ~~each new pilot that results in an increase in the number of pilots~~
20 ~~then licensed by the board.~~

21 ~~(3) The incremental mill rate adjustment authorized by this~~
22 ~~subdivision shall be calculated using the data reported to the board~~
23 ~~for the number of gross registered tons handled by pilots licensed~~
24 ~~under this division during the same 12-month period as the audited~~
25 ~~annual average net income per pilot. The incremental mill rate~~
26 ~~adjustment shall become effective at the beginning of the quarter~~
27 ~~(January 1, April 1, July 1, or October 1) as directed by the board.~~

28 ~~(d) There shall be an incremental rate of additional mills per~~
29 ~~high gross registered ton as is necessary and authorized by the~~
30 ~~board to recover the pilots' costs of obtaining new pilot boats. The~~
31 ~~incremental mill rate charge authorized by this subdivision shall~~
32 ~~be identified as a pilot boat surcharge on the pilots' invoices and~~
33 ~~separately accounted for in the accounting required by Section~~
34 ~~1136. Net proceeds from the sale of existing pilot boats shall be~~
35 ~~used to reduce the debt on the new pilot boats.~~

36 ~~(e) In addition to the rate change specified in subdivision (c)~~
37 ~~and the incremental rate specified in subdivision (d), the mill rate~~
38 ~~established by this section may be adjusted at the direction of the~~
39 ~~board if, after a hearing conducted pursuant to Article 9~~
40 ~~(commencing with Section 11120) of Chapter 1 of Part 1 of~~

~~Division 3 of Title 2 of the Government Code, the board determines that there has been a catastrophic cost increase to the pilots that would result in at least a 2-percent increase in the overall annual cost of providing pilot services.~~

~~(f) A minimum charge for bar pilotage shall be six hundred sixty-two dollars (\$662) for each vessel piloted.~~

~~(g) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of transit inward or outward.~~

~~SEC. 5. Section 1190.1 of the Harbors and Navigation Code is repealed.~~

~~SEC. 6. Section 1190.1 is added to the Harbors and Navigation Code, to read:~~

~~1190.1. (a) The rate specified in Section 1190 shall apply to a pilotage that passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Union Pacific Railroad Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Union Pacific Railroad Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.~~

~~(b) The rate established in subdivision (a) of Section 1190 shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.~~

~~(c) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.~~

~~SEC. 7. Section 1190.2 is added to the Harbors and Navigation Code, to read:~~

~~1190.2. Every vessel that uses a pilot under this division while navigating the waters of Monterey Bay shall pay the rate provided by Section 1190.~~

~~SEC. 8. Section 1191 of the Harbors and Navigation Code is amended to read:~~

~~1191. (a) The board, pursuant to Chapter 6 (commencing with Section 1200), shall recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing fair and reasonable return to pilots and inland pilots engaged in ship~~

1 ~~movements or special operations where rates for those movements~~
2 ~~or operations are not specified in Section 1190, 1190.1, or 1190.2.~~

3 ~~(b) Every vessel using pilots and inland pilots for ship~~
4 ~~movements or special operations that do not constitute bar pilotage~~
5 ~~shall pay the rate specified in the schedule of pilotage rates adopted~~
6 ~~by the Legislature.~~

7 ~~(c) Consistent with the board's adoption of rate~~
8 ~~recommendations in May 2002, the minimum rates imposed~~
9 ~~pursuant to this section that are in effect on December 31, 2002,~~
10 ~~shall be increased by 26 percent on January 1, 2003; those in effect~~
11 ~~on December 31, 2003, shall be increased by 26 percent on January~~
12 ~~1, 2004; those in effect on December 31, 2004, shall be increased~~
13 ~~by 14 percent on January 1, 2005; and those in effect on December~~
14 ~~31, 2005, shall be increased by 14 percent on January 1, 2006.~~

15 ~~(d) (1) On January 1, 2007, and each January 1 thereafter, up~~
16 ~~to and including January 1, 2012, the board shall establish or~~
17 ~~modify the rates described in subdivision (c) to reflect an average~~
18 ~~of the preceding three 12-month periods ending on October 31, in~~
19 ~~the Western Region Consumer Price Index for All Consumers, as~~
20 ~~published by the Bureau of Labor Statistics of the federal~~
21 ~~Department of Labor.~~

22 ~~(2) Paragraph (1) does not apply if all of the following occurred~~
23 ~~during the preceding year:~~

24 ~~(A) A party directly affected by pilotage rates petitioned for a~~
25 ~~public hearing to modify the then-existing rates.~~

26 ~~(B) The board subsequently recommended a modification of~~
27 ~~the rates to the Legislature.~~

28 ~~(C) Legislation was enacted that codified the board's~~
29 ~~recommended modification of rates.~~

30 ~~(3) If the board receives a petition from a qualified party, as~~
31 ~~described in subparagraph (A) of paragraph (2), it shall notice and~~
32 ~~hold the hearing in accordance with Section 1201.~~

33 ~~SEC. 9.—Section 1200 of the Harbors and Navigation Code is~~
34 ~~amended to read:~~

35 ~~1200.—(a) The board may make recommendations to the~~
36 ~~Legislature on the rates for pilotage that should be established~~
37 ~~pursuant to Sections 1190 and 1191.~~

38 ~~(b) The board shall, from time to time, review pilotage~~
39 ~~expenses and establish guidelines for the evaluation and~~

- 1 application of these expenses regarding its recommendations for
- 2 adjustments in rates.

O

